

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

U.S.A. vs. Calvin Merle Muncy, Jr.

Docket No. 7:97-CR-81-1

Petition for Action on Supervised Release

COMES NOW Pamela O. Thornton, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Calvin Merle Muncy, Jr., who, upon an earlier plea of guilty to Possession With Intent To Distribute Cocaine and Cocaine Base and Aiding and Abetting 21 U.S.C. § 841(a)(1), was sentenced by the Honorable W. Earl Britt, Senior U.S. District Judge, on April 20, 1998, to the custody of the Bureau of Prisons for a term of 262 months. It was further ordered, upon release from imprisonment the defendant be placed on supervised release for 60 months. On January 7, 2004, pursuant to a Rule 35 motion for a downward departure, the court reduced the term of imprisonment from 262 months to 149 months. The supervised release term of 60 months remained with standard conditions as adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
3. The defendant shall participate in a program of mental health treatment, as directed by the probation office.
4. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
5. The defendant shall pay a fine of \$14,275 and a special assessment fee of \$100.

Calvin Merle Muncy, Jr. was released from custody on November 30, 2007, at which time the term of supervised release commenced.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On March 5, 2008, the releasee was involved in a dispute with another man at a local bar. The following week, the releasee informed this probation officer of the incident and claimed the other man grabbed the releasee's girlfriend inappropriately. The releasee confronted the man and pushed him away from the girlfriend. The other man tripped, fell and hit his head. He was subsequently taken to the hospital, examined and released. The other man eventually filed charges and on May 12, 2008, a criminal summons was issued against the releasee, charging him with Simple Assault. The releasee was recently served the criminal summons and the case is pending disposition in Brunswick County District Court, in Bolivia, North Carolina. (The formal charge was revealed to this probation officer through a random record check performed by this probation officer, following an investigation of a separate Driving While Impaired incident also involving the releasee that is described in the following paragraph.)

On May 25, 2008, the releasee was charged with Driving While Impaired on a Motor Boat/Vessel by the United States Coast Guard in Brunswick County. The arresting officers report the releasee blew a .14 on the breathalyzer test administered at the time of arrest. The releasee admits to drinking alcoholic beverages that day, but denies he was operating the boat. He claims his girlfriend was actually operating the boat so he could relax with friends. This charge is also pending in Brunswick County District Court.

Although each of the charges are pending disposition, the releasee admits to being under the influence of alcohol on both occasions. In each incident he violated the special condition of supervision that he shall abstain from the use of any alcoholic beverages. Mr. Muncy had previously been warned that drinking alcoholic beverages would be a violation of his supervised release. Therefore, it is recommended that, as a sanction, his conditions be modified to include a special condition that he serve two days (48 hours) in jail. The releasee has also been instructed to refrain from drinking alcoholic beverages and instructed to participate in treatment. It is recommended we allow the State to dispose of the pending charges and no further action be taken.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 2 days, (48 hours) and abide by all rules and regulations of the designated facility.


Except as herein modified, the judgment shall remain in full force and effect.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Pamela O. Thornton
Pamela O. Thornton
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Executed On: July 21, 2008

ORDER OF COURT

Considered and ordered this 23 day of July, 2008, and ordered filed and made a part of the records in the above case.


W. Earl Britt
Senior U.S. District Judge